

AVIATION TECHNOLOGIES LTD.

Executive Field Office: 9084 - East Arbab Court, Tucson, Arizona, 85747

Telephone: (775) 287-3681, email: atnrv@aol.com

Physical Base of Operations: Tonopah Airport, P.O. BOX: # 73, Tonopah, Nevada 89049

Aviation Technologies Ltd., "ATL" PRINCIPAL PLACE OF BUSINESS: TONOPAH AIRPORT, NYE COUNTY, NEVADA

Robert Alan Kemp

[D/B/A:]

NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

(Tuesday), December 16, 2008

The Honorable Charles D. Nottingham, Chairman - STB.

The Honorable Ann K. Quinlan, Acting Secretary

Office of the Chairman and Secretary

Surface Transportation Board

395 - E Street, SW.

Washington, DC 20024

EMERGENCY FAX FILING: 202-245-0458 / - 0461 / - 0464

RE: Docket No. AB-33 (SUB-NO. 230X)

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DEC 17 2008

Part of
Public Record

[**APPEAL**]

Union Pacific Railroad Company

-- ABANDONMENT EXEMPTION --

DEC 16 2008

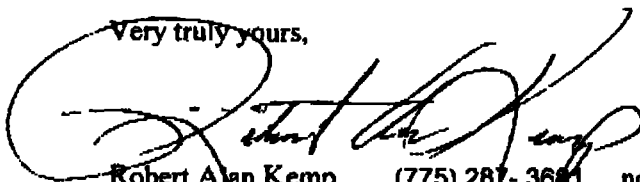
SURFACE
TRANSPORTATION BOARD

Dear Secretary Quinlan:

The instant **APPEAL**, refers to the Union Pacific Railroad Company Abandonment Exemption: Docket No. AB-33 (SUB-NO. 230X), and specifically the [Decision] Entered by the Board on November 26th, 2008, to **REJECT** the [EVIDENCE], timely and lawfully filed by the Banks Family Trust for and on behalf of: Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD, on November 24th, 2008.

A hard copy of this Motion is also enclosed via USPS. to permit circulation of same to the Board and Staff. Please feel free to contact me personally if You have any Questions or Comments

Very truly yours,



Robert Alan Kemp (775) 287-3681 ncmv@aol.com

D/B/A: NEVADA CENTRAL RAILROAD

FILED

DEC 16 2008

SURFACE
TRANSPORTATION BOARD

cc: Mr. John T. Digilio, Jr., Vice Chairman - Director/President, Nevada Central Railroad, Corporation
Mr. Joseph Anthony McNulty, III - Director/Vice President, Nevada Central Railroad, Corporation

Enclosures: Appal, Certification of Service

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EMERGENCY FAX FILING: 202-245- 0458 / - 0461 / - 0464

RE: Docket No. AB-33 (SUB-NO. 230X)

[APPEAL]

Union Pacific Railroad Company

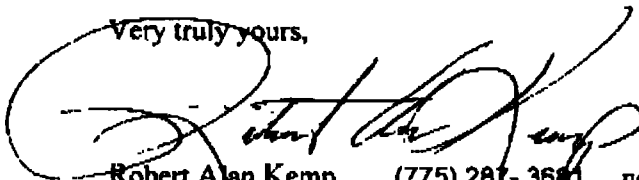
-- ABANDONMENT EXEMPTION --

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A hard copy of this Motion is also enclosed via USPS, to permit circulation of same to the Board and Staff. Please feel free to contact me personally if You have any Questions or Comments.

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Robert Alan Kemp (775) 287- 3681 ncmv@aol.com

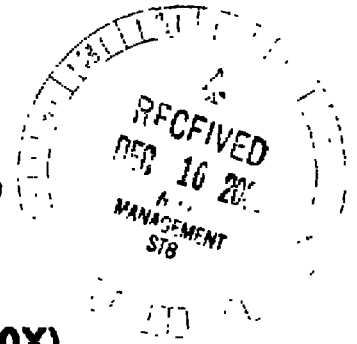
D/B/A: **NEVADA CENTRAL RAILROAD**

cc: Mr. John T. Digilio, Jr., Vice Chairman - Director/President, Nevada Central Railroad, Corporation
Mr. Joseph Anthony McNulty, III - Director/Vice President, Nevada Central Railroad, Corporation

Enclosures: Appeal, Certification of Service

12/16/2003 10:01 0203742202 FILED IN PAGE 02

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



STB - DOCKET NO: AB-33 (SUB-NO. 230X)

**Union Pacific Railroad Company
-- ABANDONMENT EXEMPTION --
IN LASSEN COUNTY, CALIFORNIA AND WASHOE COUNTY, NEVADA
(FLANIGAN INDUSTRIAL LEAD)
(SUSANVILLE INDUSTRIAL LEAD)**

APPEAL

**- NEVADA CENTRAL RAILROAD -
(FACTUAL BACKGROUND AND SUMMARY OF RELIEF REQUESTED)**

STATEMENT OF FACTS

1. NEVADA CENTRAL RAILROAD hereafter ("NCR") is in the process of constructing the (NCR-ByPass-TM), over the right of way previously identified and lawfully established for Construction and Operation by Nevada Central Railroad with the Surface Transportation Board on July 14th, 2003 identified and referenced to the Surface Transportation Board, hereafter ("STB" or the "Board"), and the STB Section of Environmental Analysis, hereafter ("SEA"), referenced under Finance Docket No. 34382. The lines described herein for Abandonment, directly connect to the (NCR-ByPass-TM. PHASE-1 Construction Project, specifically the NCR: North-West Fork), as further described as background information within the NCR Notice of Operation and Acquisition to the

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Board within STB Docket Number: 34773, and as described personally to the STB Director of Section of Environmental Analysis; Victoria Rutson and her staff, both Orally, with Documented Legal Description, as well as with Mapping, and again herein by description as the [NCR: North-West Fork] which starts near Tonopah, NV, and runs in a North/North-West Direction to Mina on the (Historic previously Abandoned SP-Mina Route), then to Hawthorne, continuing North/North-West to Wadsworth, and then to the Flanigan connection with the UP, running Appx: 6-Miles in Nevada and then crossing Appx: 16-Miles over the California/Nevada Border directly to Wendel, California, finally linking to the historic Susanville Industrial Lead and the historic Modoc Route. NCR will initially execute the Commercial Transportation of either processed and or unprocessed Raw Material as either Liquid, Gaseous, or Solid (state's) of Fuel, and or Additives and Related Materials for the Generation of Electrical Power necessary to support the Maintenance and Operation of the NCR Class - III Modoc Route, and in the future the Heavy High Speed Mainline Railroad Operations within the State of Nevada, with Future Extensions into California, Oregon, Washington State, and (Canada), as well as to the Southwest in Arizona, New Mexico, Texas, and (Mexico). Moreover NCR will eventually upgrade and then operate the subject Class-III 22-Mile Main Line of rail in Washoe County, NV, as well as in Lassen County, CA, as a virtual: Pollution-less Heavy High Speed Mainline Railroad System. The current continuing operation of the Class - III, 220' Main Line at Flanigan, as well as the Re-Construction of the Appx: 21+ Mile Balance of the NCR - MODOC ROUTE, will be permanently sustained for a Minimum Period of 30-Years by revenues generated by Customers for which ATL has already contracted for the provision of Transportation Services constituting Interstate Commerce by Rail to be either Located Adjacent To, or Connected To said 220' Main Line Rail System, and then additional customers with it's 21+ Mile Re-Constructed Rail back to Wendel, California.

2. Union Pacific Railroad along with RTI and Attorneys Heffner and Kahn, proceed over a year ago to establish an Unlawful Artifice by which UP could manufacture the basis of its subsequent actions to Terminate the Provision and Access of Information to NCR in direct violation of: [49-C.F.R., 1152.27(a)], for more than a Year from the time that NCR contacted UP by telephone at its offices in both Chicago, IL, as well as Omaha, NE. UP further stated that it would NOT DEAL with NCR in any way, and that UP could in essence and as such would in fact in the instant case;

Circumvent the Authority of the Board and execute a Direct Sale of the Subject Lines described herein for abandonment to RTI, even though UP has just recently clearly admitted to the Board in effect that: **RTI Never Intended to Operate the Line as Common Carrier executing Interstate Commerce**. Further admissions by UP directly to NCR-Staff, include a detailed description of the confirmed operative intent of RTI to **Salvage the Entire 22-Mile Line from Flanigan, NV, to Wendel, CA.** in direct contravention of the Intent for which the STB instituted and authorized the current OFA process as a means to preserve a federally active line of rail, as well as the basis upon which UP documented, as the predicate basis upon which this abandonment was filed as a means to BARR NCR from executing interstate commerce, as a Railroad Company. Moreover, NCR-Staff have already **confirmed** that RTI did (NOT AT ANY TIME Offer, Nor Negotiate, with Any Potential Customer located along the lines described herein, including but not limited to the HL-Power Company, in order to connect to and commence the execution of Interstate Commerce by Rail. Bottom Line, is that the RTI OFA was a Complete Artifice manufactured by UP with Smoke and Mirrors, as a means to **Criminally Defraud NCR** for over a year, from obtaining a Certificate of Public Convenience and Necessity as a Nevada State Based Rail Carrier, in order to enable UP the necessary time to Maintain and Execute its Secret Covenant and Conspiracy with individuals employed within the U.S. Department of Energy, along with Director of Section of Environmental Analysis Victoria Rutson and her assistant David Navecky, to RIG and thus STEAL as defined within, but not limited to the: Federal RICO Act, as well as the Federal Industrial Economic Espionage Act, [the NCR-ByPass-TM. Legally Defined within FD: 34382], from NCR and its Shareholders.

3. Most recently on November 4th., 2008 UP filed a **REPLY** that knowingly contained False, Defective, and Misleading Information, with Criminal Intent to Destroy NCR, and directly damage the shareholders of the NEVADA CENTAL RAILROAD, CORPORATION, as well as the AVIATION TECHNOLOGIES LTD., CORPORATION. Therefore, Petitioner in the name of NCR, on November 24th., 2008, lawfully filed his Motion To Strike the November 4th., 2008 REPLY filed by UP which contained the provision of Knowingly False Information to the Board. Petitioner also relied on the Lawful Contemporaneous Filing of Evidence by (the) Banks Family Trust - Investment Partnership, also filed with the Board by Mr. Kevin M. Banks, on November 24th., 2008.

ARGUMENT

4. Petitioners Financial Representative lawfully filed [FIRST] for the expressed purpose of establishing EVIDENCE in the form of a Payment Authorization to the Board confirming Mr. Kemp's Financial Capacity, and [SECOND] authorizing the Board to either Execute, or to Not Execute, a payment to the Board to be held as BOND, in the amount of: \$ 5,750.00. In either case, the Filing exists as INCONTROVERTIBLE EVIDENCE of Petitioners Financial Capacity, for purposes of supporting Petitioners Motion to Strike the November 4th., Reply of Union Pacific Railroad hereafter ("UP"), which contained Knowingly False Information submitted by UP with Criminal Intent.

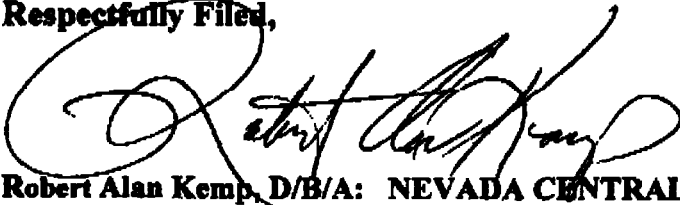
5. Regardless of the decision by the Board to either Execute and thus Process, or Not to Execute and thus Not Process, the Payment Authorization provided by Petitioners Warranted Financial Agent, the Board had NO LAWFUL RIGHT to either Statutorily or Constitutionally (((REJECT))) the FILING by Petitioner in the form of EVIDENCE factually confirming Petitioners Financial Capacity.

6. At best, the Board Defectively Rejected the lawful submission of Evidence by Petitioners Lawful Warranted Financial Agent based on OMISSION, and at worst which is most likely in the instant case, the Rejection was based on the Unlawful Criminal Action by the Board for which each Member is both Civilly and Criminally Directly Liable to Petitioner, as the EVIDENCE filed by Mr. Banks existed as INCONTROVERTIBLE EVIDENCE as sufficient proof that information provided by UP in its Reply of November 4th., 2008, was Knowingly FALSE, and would further exist as Factual Evidence Confirming the Board's previous Unlawful Rejection of Petitioners Ofa on September 19th., 2008.

REQUEST FOR RELIEF

7. Based on the Foregoing, Petitioner now requests that the Filing of EVIDENCE previously filed by Mr. Banks on November 24th., 2008 be Accepted, and that the Board only confirm its decision to Not Process the Authorization contained therein, simply as a Decision by the Board.

Respectfully Filed,



Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD

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email: ncrnv@aol.com

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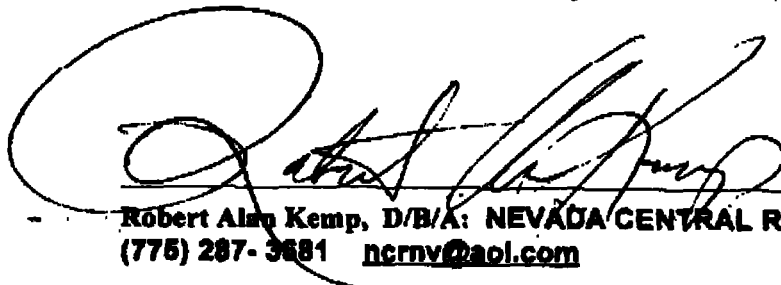
APPEAL

Union Pacific Railroad Company

- - ABANDONMENT EXEMPTION - -

CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 16th day of December, 2008, that I made service of the attached original NCR [APPEAL], upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the Union Pacific Exemption: AB-33 (SUB-NO. 230X), by depositing same into the United States First Class Mail with prepaid postage, and also Directly to the STB via EMERGENCY FAX FILING, and by United States First Class Mail with prepaid postage to: Surface Transportation Board, 395 - E Street SW, Washington, DC 20024



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